REMARKS

This is a full and timely response to the outstanding Final Office Action mailed October 23, 2008. Upon entry of the amendments in this response, claims 1-8, 10-18, 20, 22-29, and 31 remain pending. In particular, Applicant amends claims 1, 10-11, 20, 22, and 31 and cancels claims 9, 19, 21, and 30 without prejudice, waiver, or disclaimer. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

I. Summary of Telephone Interview

Applicant would like to thank Examiner Parker for taking the time to discuss the outstanding Office Action by telephone on December 16, 2008 with Applicant's Representative Sherry Womack, Reg. No. 62,356. In that telephone discussion, Applicant's Representative pointed out regarding claims 5, 15 and 26 that *Leamon*, col. 1, ll.48-51, col. 3, ll. 12-18, and col. 19, ll. 26-34 only describes a *simulated* call center (see col. 18, l. 50 – col. 19, l. 65) and any "workload statistic" described therein is not derived from "telephone call data stored in a database of a communications switch." Hence, *Leamon* in view of *Green* does not describe all the features of claims 5, 15 and 26. Further, Applicant's Representative also pointed out that *Leamon* in view of *Green* does not describe all the features of claims 10, 20 and 31 because *Leamon*, col. 4, ll. 22-28 actually describes contact center for handling company-customer contact and not employer-employee contact. In other words, the contact center is for handling customer contact and not that of employees. The Examiner disagreed with the points made by Applicant's Representative. Although no agreement was reached, Applicant

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appreciates the Examiner taking the time to discuss these points with Applicant's
Representative.

II. Rejections Under 35 U.S.C. §103

A. Claim 1 is Allowable Over *Green* in view of *Leamon*

The Office Action indicates that claim 1 stands rejected under 35 U.S.C. 103(a)
as being unpatentable over U.S. Patent Number 6,192,346 ("*Green*") in view of U.S.
Patent Number 6,970,829 ("*Leamon*"). Applicant respectfully traverses this rejection for
at least the reason that *Green* in view of *Leamon* fails to disclose, teach, or suggest all
of the elements of amended claim 1. More specifically, amended claim 1 recites:

> 1.   Logic stored on a computer readable medium that when executed
> causes a computer to perform a vacation processing request system, the
> logic comprising:
>   logic configured to provide a workload estimate comprising at least
> a first workload statistic that is used to operate a first call center;
>   logic configured to provide a vacation eligibility criteria based on at
> least a first rule;
>   ***logic configured to process the vacation request based on the***
> ***workload estimate and the vacation eligibility criteria comprising:***
>   logic configured to receive the vacation request of the first
> employee;
>   ***logic configured to deny the vacation request due to a***
> ***lack of vacation availability at a time of the vacation request; and***
>   ***logic configured to grant the vacation request due to a***
> ***vacation availability at a time after the vacation request was denied.***

(*Emphasis added*). Applicant respectfully submits that *Green* fails to show or suggest at

least the features emphasized above. With regard to the limitations of claims 19, 21

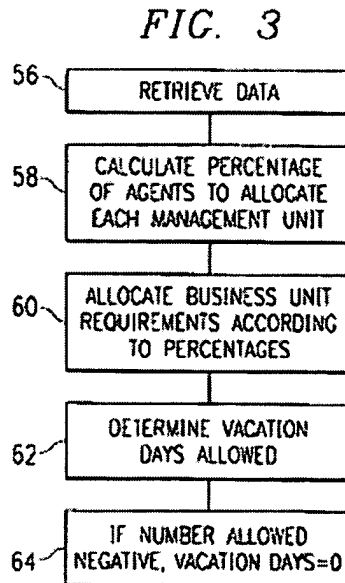and 30, the Office Action alleged on p. 7:

> Regarding **claims 19, 21 and 30** Green teaches, wherein logic configured
> to process the vacation request comprises: logic configured to receive the
> vacation request of the first employee; logic configured to deny the
> vacation request due to a lack of vacation availability at a time of the
> vacation request; and logic configured to grant the vacation request due to

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a vacation availability at a time after the vacation request was denied. (Figure 3, column/line 6/37-43).

(*emphasis included*). However, *Green*, col. 6, lines 37-43 states:

The vacation calendars are displayed having a variety of different colors to indicate status of particular days on calendar. The colors are indicative of several conditions including, (1) a day is not available to be selected, (2) the day is available to be selected, (3) partial day vacation selected, (4) all day vacation selected, (5) holiday, (6) office closed, and (7) alternate vacation day.

Further, *Green*, Fig. 3 is depicted below:

FIG. 3

As can be seen in Figure 3 and col. 6, lines 37-43 depicted above, *Green* fails to show

or suggest "logic configured to deny the vacation request due to a lack of vacation

availability at a time of the vacation request" and "logic configured to grant the vacation

request due to a vacation availability at a time after the vacation request was denied."

Green, col. 6, lines 37-43 merely describes how vacation calendars are displayed and

what a variety of different colors indicate on the calendar. Furthermore, Fig. 3 does not

describe granting, much less denying and then granting, a vacation request. Moreover, *Leamon* does not cure this shortcoming of *Green* with respect to claim 1 because *Leamon* does not describe receiving requests from an employee for vacation. Consequently, *Leamon* does not describe granting or denying requests for vacation from an employee.

In view of the foregoing, *Green* in view of *Leamon* fails to show or suggest all the features of claim 1. Therefore, Applicant respectfully requests that the rejection of claim 1 as being obvious be withdrawn.

B.   **Claim 11 is Allowable Over *Green* in view of *Leamon***

The Office Action indicates that claim 11 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Green* in view of *Leamon*. Applicant respectfully traverses this rejection for at least the reason that *Green* in view of *Leamon* fails to disclose, teach, or suggest all of the elements of claim 11. More specifically, claim 11 recites:

> 11.   A method of processing a vacation request, the method comprising:
> providing a workload estimate comprising at least a first workload statistic that is used to operate a first call center;
> providing a vacation eligibility criteria based on at least a first rule;
> processing the vacation request of a first employee based on the workload estimate and the vacation eligibility criteria, *wherein processing the vacation request comprises*:
> receiving the vacation request of the first employee;
> ***denying the vacation request due to a lack of vacation availability at a time of the vacation request; and***
> ***granting the vacation request due to a vacation availability at a time after the vacation request was denied.***

(*Emphasis added*). Applicant respectfully submits that *Green* in view of *Leamon* fails to show or suggest at least the features emphasized above. With regard to the limitations of claims 19, 21 and 30, the Office Action alleged on p. 7:

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Regarding **claims 19, 21 and 30** Green teaches, wherein logic configured to process the vacation request comprises: logic configured to receive the vacation request of the first employee; logic configured to deny the vacation request due to a lack of vacation availability at a time of the vacation request; and logic configured to grant the vacation request due to a vacation availability at a time after the vacation request was denied. (Figure 3, column/line 6/37-43).

(*emphasis included*). However, *Green*, col. 6, lines 37-43 state:

The vacation calendars are displayed having a variety of different colors to indicate status of particular days on calendar. The colors are indicative of several conditions including, (1) a day is not available to be selected, (2) the day is available to be selected, (3) partial day vacation selected, (4) all day vacation selected, (5) holiday, (6) office closed, and (7) alternate vacation day.

Further, *Green*, Fig. 3 is depicted below:

FIG. 3
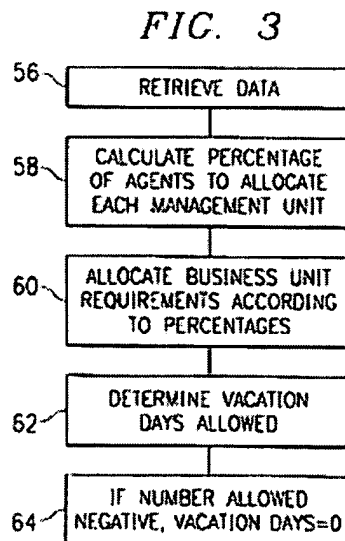
As can be seen in Figure 3 and col. 6, lines 37-43 depicted above, *Green* fails to show

or suggest "denying the vacation request due to a lack of vacation availability at a time

of the vacation request" and "granting the vacation request due to a vacation availability

at a time after the vacation request was denied." *Green*, col. 6, lines 37-43 merely

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describes how vacation calendars are displayed and what a variety of different colors

indicate on the calendar. Furthermore, Fig. 3 does not describe granting, much less

denying and then granting, a vacation request. Moreover, *Leamon* does not cure this

shortcoming of *Green* with respect to claim 11 because *Leamon* does not describe

receiving requests from an employee for vacation. Consequently, *Leamon* does not

describe granting or denying requests for vacation from an employee. In view of the

foregoing, *Green* in view of *Leamon* fails to show or suggest all the features of claim 11.

Therefore, Applicant respectfully requests that the rejection of claim 11 as being

obvious be withdrawn.

C. Claim 22 is Allowable Over *Green* in view of *Leamon*

The Office Action indicates that claim 22 stands rejected under 35 U.S.C. 103(a)

as being unpatentable over *Green* in view of *Leamon*. Applicant respectfully traverses

this rejection for at least the reason that *Green* in view of *Leamon* fails to disclose,

teach, or suggest all of the elements of claim 22. More specifically, claim 22 recites:

> 22. A vacation request processing system, the system comprising:
> a memory comprising:
> computer-readable code that provides a workload estimate comprising at least a first workload statistic that is used to operate a first call center;
> computer-readable code that provides a vacation eligibility criteria based on at least a first rule;
> computer-readable code that processes the vacation request of a first employee based on the workload estimate and the vacation eligibility criteria; and
> a processor for executing the computer-readable code stored in the memory, *wherein the memory further comprises:*
> computer-readable code that receives the vacation request of the first employee;
> *computer-readable code that denies the vacation request due to a lack of vacation availability at a time of the vacation request; and*

> ***computer-readable code that grants the vacation
> request due to a vacation availability at a time after the vacation
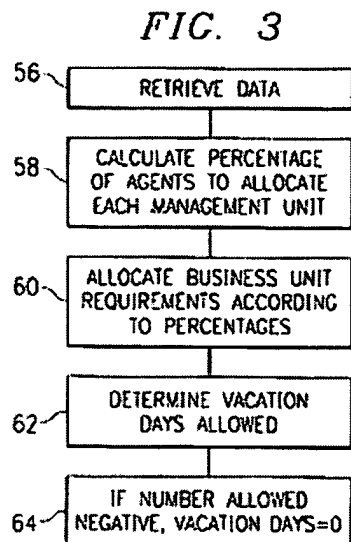> request was denied.***

(*Emphasis added*). Applicant respectfully submits that *Green* in view of *Leamon* fails to

show or suggest at least the features emphasized above. With regard to the limitations

of claims 19, 21 and 30, the Office Action alleged on p. 7:

> Regarding **claims 19, 21 and 30** Green teaches, wherein logic configured
> to process the vacation request comprises: logic configured to receive the
> vacation request of the first employee; logic configured to deny the
> vacation request due to a lack of vacation availability at a time of the
> vacation request; and logic configured to grant the vacation request due to
> a vacation availability at a time after the vacation request was denied.
> (Figure 3, column/line 6/37-43).

(*Emphasis included*). However, *Green*, col. 6, lines 37-43 states:

> The vacation calendars are displayed having a variety of different colors to
> indicate status of particular days on calendar. The colors are indicative of
> several conditions including, (1) a day is not available to be selected, (2)
> the day is available to be selected, (3) partial day vacation selected, (4) all
> day vacation selected, (5) holiday, (6) office closed, and (7) alternate
> vacation day.

Further, *Green*, Fig. 3 is depicted below:

FIG. 3

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56 ──┐  ┌─────────────────────────┐
      └─│     RETRIEVE DATA        │
        └─────────────────────────┘
                   │
58 ──┐  ┌─────────────────────────┐
      └─│ CALCULATE PERCENTAGE     │
        │ OF AGENTS TO ALLOCATE    │
        │ EACH MANAGEMENT UNIT     │
        └─────────────────────────┘
                   │
60 ──┐  ┌─────────────────────────┐
      └─│ ALLOCATE BUSINESS UNIT   │
        │ REQUIREMENTS ACCORDING   │
        │     TO PERCENTAGES       │
        └─────────────────────────┘
                   │
62 ──┐  ┌─────────────────────────┐
      └─│   DETERMINE VACATION     │
        │     DAYS ALLOWED         │
        └─────────────────────────┘
                   │
64 ──┐  ┌─────────────────────────┐
      └─│   IF NUMBER ALLOWED      │
        │ NEGATIVE, VACATION DAYS=0│
        └─────────────────────────┘
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As can be seen in Figure 3 and col. 6, lines 37-43 depicted above, *Green* fails to show or suggest "computer-readable code that denies the vacation request due to a lack of vacation availability at a time of the vacation request" and "computer-readable code that grants the vacation request due to a vacation availability at a time after the vacation request was denied." *Green*, col. 6, lines 37-43 merely describes how vacation calendars are displayed and what a variety of different colors indicate on the calendar. Furthermore, Fig. 3 does not describe granting, much less denying and then granting, a vacation request. Moreover, *Leamon* does not cure this shortcoming of *Green* with respect to claim 22 because *Leamon* does not describe receiving requests from an employee for vacation. Consequently, *Leamon* does not describe granting or denying requests for vacation from an employee. In view of the foregoing, *Green* in view of *Leamon* fails to show or suggest all the features of claim 22. Therefore, Applicant respectfully requests that the rejection of claim 22 as obvious be withdrawn.

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D. **Claims 2 – 8, 10, 12 – 18, 20, 23 – 29, and 31 are Allowable Over**
   Green in view of _Leamon_

The Office Action indicates that claims 2 – 8, 10, 12 – 18, 20, 23 – 29, and 31 stand rejected under 35 U.S.C. 103(a) as being unpatentable over _Green_ in view of _Leamon_. Applicant respectfully traverses this rejection for at least the reason that _Green_ in view of _Leamon_ fails to disclose, teach, or suggest all of the elements of claims 2 – 8, 10, 12 – 18, 20, 23 – 29, and 31. More specifically, dependent claims 2 – 8, and 10 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 1. Dependent claims 12 – 18, and 20 are believed to be allowable for at least the reason that they depend from allowable independent claim 11. Dependent claims 23 – 29, and 31 are believed to be allowable for at least the reason that they depend from allowable independent claim 22. _See In re Fine_, _Minnesota Mining and Mfg.Co. v. Chemque, Inc._, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

III. **Miscellaneous Issues**

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

In the Response to Applicant's Remarks on p. 3, paragraph 4, the Office Action has included a conclusion that "because using email in a work environment is old and

well known in the art, it would have been obvious to one with ordinary skill in the art [to] modify the system in Green by substituting using the user interface on the computer for submitting a vacation request with sending email." Applicant traverses this finding that this subject matter is well known. Particularly in the context of the claimed combination that includes logic configured to provide a workload estimate comprising at least a first workload statistic that is used to operate a first call center; logic configured to provide a vacation eligibility criteria based on at least a first rule; logic configured to process the vacation request based on the workload estimate and the vacation eligibility criteria comprising: logic configured to receive the vacation request of the first employee; logic configured to deny the vacation request due to a lack of vacation availability at a time of the vacation request; and logic configured to grant the vacation request due to a vacation availability at a time after the vacation request was denied, the subject matter alleged to be well-known is too complex for a reasonably skilled person to consider it to be well-known to the point that no additional evidence is needed. Because of this traversal, the Examiner must support his finding with evidence, or withdraw the well-known allegation. See MPEP § 2144.03. Therefore, the conclusion that this feature of former claim 1 is well-known is improper and should be withdrawn.

In addition, the Response to Applicant's Remarks on pp. 3, paragraph 5, the Office Action has included a conclusion that "it is old and well known in the art that a communications switch is used to connect telephone calls." Applicant traverses this finding that this subject matter is well known. Particularly in the context of the claimed combination that includes logic configured to provide a workload estimate comprising at least a first workload statistic that is used to operate a first call center; logic configured

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to provide a vacation eligibility criteria based on at least a first rule; logic configured to process the vacation request based on the workload estimate and the vacation eligibility criteria comprising: logic configured to receive the vacation request of the first employee; logic configured to deny the vacation request due to a lack of vacation availability at a time of the vacation request; and logic configured to grant the vacation request due to a vacation availability at a time after the vacation request was denied, the subject matter alleged to be well-known is too complex for a reasonably skilled person to consider it to be well-known to the point that no additional evidence is needed. Because of this traversal, the Examiner must support his finding with evidence, or withdraw the well-known allegation. See MPEP § 2144.03. Therefore, the conclusion that the element is well-known is improper and should be withdrawn.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

/　　　Sherry Womack　　　　/
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